

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ESPIRE ADS LLC, THE BLU MARKET, INC.,
ex rel. LISA NAVARRO, THE BLU MARKET
LLC, ex rel. LISA NAVARRO, and LISA
NAVARRO individually,

Plaintiffs,

v.

TAPP INFLUENCERS CORP., THE BLU
MARKET, INC., THE BLU MARKET LLC,
STEVEN FORKOSH, BRENNAN KASTNER,
and JUSTIN EMERT,

Defendants

1:21-cv-10623
Hon. John G. Koeltl

AFFIDAVIT IN SUPPORT
OF MOTION

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STATE OF TEXAS

COUNTY OF TRAVIS

Brennan Kastner, being duly sworn, deposes and says:

1. I am a defendant in this action and make this affidavit in support of defendants motion for partial summary judgment dismissing the first amended complaint (Exhibit 1).

2. First, I incorporate the points raised by Steven Forkosh in his affidavit and in the memorandum of law submitted herewith. Included therein is the fact that Espire appears to be barred from litigating in New York, having operated here initially without registration.

3. Second, as set forth in the memorandum submitted herewith, I believe that the court lacks personal jurisdiction over me in New York.

4. My situation is the same as Justin Emert's. Although I am a member TAPP

Market Influencers, LLC, with a business address in New York, I am and have been located in Austin, Texas.

5. As TAPP is engaged in internet based activities, most of us who are involved, including myself, are able to easily work remotely, which is fairly typical in the industry.

6. In fact, my 2020 agreement with Espire (Exhibit 27) reflects my Texas residence.

7. I am not a resident of New York State, own no property in New York State, and have not transacted business in New York State. I live in Texas, I work from Texas and I have come to New York no more than three times in the past 3 years.

8. Attached as exhibit 28 is my redacted driver's license and a sample utility bill.

9. As set forth in the memorandum submitted herewith, I believe that there is no personal jurisdiction which can be asserted over me in New York.

10. In addition, my agreement with Espire provides for exclusive jurisdiction in California. The lawsuit in New York violates that commitment as well.

11. Finally, with respect to Espire's copyright claim, I had been the person who put together Espire's apps.

12. To do so, I took open source free software from public sites such as Reddit and used that as the framework for Espire's apps.

13. Espire was fully aware that open source software was the framework.

14. As such, to the extent that Espire filed copyrights claiming that the apps were entirely original, the filings were knowingly false.


BRENNAN KASTNER

Sworn to me
April, 2022



State of Texas
County of Travis

This instrument was acknowledged before
me on April 14th, 20 22 by
Brennan Kastner

